

REMARKS

This Amendment is submitted in response to the Office Action of July 7, 2005. In that Office Action, claims 2 - 21 were rejected under 35 U.S.C. § 103. With this Amendment, claims 2, 3, 5, 6, 7, 10, 11, 13, 14 and 15 are amended, claims 8, 9, 12, 16, 17, 18, 19, 20 and 21 are canceled, and new claims 25-33 are presented. Applicant submits that the claims as currently presented are patentable, and a notice to that effect is respectfully requested.

Applicant thanks Examiner Katherine A. Bareford for the courtesies extended during a personal interview on August 31, 2005. At that interview, a commercial embodiment of the present invention was shown to Examiner Bareford, and proposed amendments to the claims discussed. More specifically, revisions to independent claims 2 and 11 were discussed which would revise the description of the container and its relationship to the strap, and more specifically relate the unique relationship achieved by the inserting step of the user's hand between the container and the strap so that a palm side of the hand engages the sidewall of the container, wherein the at least partially elastic strap engages a back side of the hand to urge the palm side of the hand against the sidewall and to stabilize the container with respect to movement relative to the hand. At the interview, revisions proposed herein to dependent claims 3, 5, 6, 7, 10, 11, 13, 14 and 15 were presented and briefly reviewed, along with proposed new claims 25-30.

At the interview, the Armstrong, Boom and Zebrowski patents were discussed and distinguished as noted in the interview summary provided by Examiner Bareford. In addition, Applicant and Examiner Bareford reviewed a Supplemental European Search Report that Applicant had received in EP Application No. 01 97 5294, and the three references cited in that Supplementary Search Report that were not yet of record in this application (Shuzo JP 10 287339, Scalp U.S. 2,228,536 and Douchette U.S. 3,682,352). That information is submitted in a Supplemental Information Disclosure Statement accompanying this Amendment.

At the interview, Applicant's evidence regarding secondary considerations was briefly discussed. While Applicant does not agree with Examiner Bareford's characterization of the pertinence of that evidence, in view of the revisions to the claims presented herein Applicant submits that the claimed

inventions are not obvious in view of the prior art of record, regardless of the consideration of Applicant's secondary considerations evidence.

In the Office Action, claims 17-21 were rejected under 35 U.S.C. § 103(a) as unpatentable over Armstrong in view of Zebrowski. With this Amendment, claims 17-21 are canceled, thus rendering this rejection moot.

In the Office Action, claims 2-6, 8-14 and 16-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Armstrong in view of Boom. Claims 7 and 15 were rejected under 35 U.S.C. § 103 as being unpatentable over Armstrong in view of Boom as applied to claims 2-6, 8-14 and 16-21, and further in view of Vaughn.

As noted above, independent claims 2 and 11 are amended herein. Also amended are claims 3, 5, 6, 7, and 10 which depend from independent claim 2, and claims 13, 14 and 15 which depend from independent claim 11. Dependent claims 8, 9, 12 and 16-21 are canceled herein.

Independent claim 2 now sets forth a method of holding paint comprising providing a container having a bottom wall and a sidewall extending from the bottom wall to define a cavity which has a top opening larger than the bottom wall. The method also comprises providing a supportive strap having a first end and a second end with the first and second ends secured to the container. The supportive strap is at least partially elastic and extends along but is outwardly spaced from the sidewall to form a pocket between the supportive strap and the sidewall. The method also comprises inserting a user's hand into the pocket so that a palm side of the hand engages the sidewall of the container, wherein the at least partially elastic supportive strap engages a back side of a hand to urge the palm side of the hand against the sidewall and stabilizes the container with respect to movement relative to the hand. The method also comprises introducing paint through the top opening and into the cavity of the container.

Applicant submits that the invention as presently claimed includes steps which are not taught by the cited references, on their own or in combination, and thus respectfully requests that the § 103 rejection of the pending claims be withdrawn and that a Notice of Allowance for the claims as currently presented be issued.

The Armstrong patent discloses a container adapted for holding paint which has a handle 2 which is gripped by a user like a coffee cup handle (see FIGS. 1 and 6 of Armstrong). In use, the palm side of the user's hand engages the handle itself, and the back of the user's hand does not contact anything, either container or handle. There is no disclosure or suggestion in Armstrong that the handle 2 constitute a strap which has a portion which is elastic or that the handle constitute a strap that is at least partially elastic.

Applicant has reviewed all of the references of record involving paint containers, and none of them disclose a handle or strap in any form which comprises an elastic portion or is at least partially elastic. All other paint container handles are relatively rigid in nature, other than Skelton US 5,092,481 and Busch US 5,570,807, which disclose small finger loops which can be flexible and/or resilient. Applicant submits that he is the first to appreciate that providing a paint container with a strap that is at least partially elastic has significant advantages in terms of how a paint container may be held by a user's hand over time, without creating undue fatigue on the user.

The Boom patent was also cited against Applicant's independent claim 2, in combination with Armstrong. The Boom patent teaches a handle for a baby wipe container. This handle, as seen in FIGS. 1 and 3 of the Boom patent, is also "gripped" by the user (i.e., the palm side of the user's hand engages the handle when in use). Unlike the Armstrong patent, however, the back of the user's hand contacts the outer surface of the container and the fingers and thumb of that hand are then free to grab a baby's leg. The focus for a user on holding a paint container must be on holding the paint container upright (to avoid spills) and for a relatively long length of time (while engaged in painting some surface). In Boom, however, the focus for a user on simultaneously holding a baby wipe container and baby is quite different (the orientation of the wipes container is not an issue, other than it be accessible), and for a much shorter duration of time (only as long as it takes to clean up the baby). While in one embodiment, the Boom handle is characterized as resilient, it teaches a use for that handle which is the opposite of that set forth in Applicant's claims—the handle contacts the palm side of the user's hand while the back side of the user's hand engages the container.

As set forth in Applicant's amended claim 2, in the present invention a user's hand is inserted to have its palm side engaging the sidewall of the container, with the at least partially elastic supportive strap engaging a back side of the hand to urge the palm side of the hand against the sidewall. As noted above, this step is not taught by either Armstrong or Boom. Applicant submits, therefore, that it is inappropriate to combine the teachings of Armstrong and Boom to make an obviousness rejection of the presently claimed invention. The disparate uses of the Armstrong and Boom containers, distinctly different structures and also distinctly different methods of use of those containers, would not lead one of ordinary skill to combine them to achieve Applicant's claimed invention, particularly when the references fail to teach each step of Applicant's method, either alone or in combination. Applicant respectfully requests reconsideration of independent claim 2 as currently presented, along with its dependent claims 3, 4, 5, 6, 7 and 10. In those dependent claims, certain revisions are made herein to conform their terminology to that of independent claim 2. In addition, claims 6 and 7 are amended to further clarify the step of providing a retainer for securing at least a portion of a paint applicator tool within the cavity of the container. A Notice of Allowance for independent claim 2 and its dependent claims 3, 4, 5, 6, 7 and 10 is respectfully requested.

Independent claim 11 was also rejected under § 103 in view of the Armstrong and Boom patents. Independent claim 11, as amended herein, sets forth a method for applying paint onto a surface comprising providing a container having a bottom wall and a sidewall which defines a cavity, wherein the cavity has a top opening which is opposite and larger than the bottom wall. The method also includes providing a strap having a first end and a second end, with the first end secured to the container adjacent the top opening and the second end secured to the container adjacent the bottom wall, wherein the strap is at least partially elastic. The method also includes inserting a user's hand between the container and the strap so that a palm side of the hand engages the sidewall of the container, wherein the at least partially elastic strap engages a back side of the hand to urge the palm side of the hand against the sidewall and stabilizes the container with respect to movement relative to the hand. The method also includes introducing paint through the top opening and into the cavity of the container, providing a paint applicator tool, inserting

the paint applicator tool through the top opening and into the paint in the cavity of the container, and applying the paint to the surface with the paint applicator tool.

For the reasons discussed above, Applicant submits that independent claim 11 is patentable over the references of record, and specifically with respect to the Armstrong and Boom references previously cited against independent claim 11. Dependent claim 13 is amended to specifically claim an additional step, wherein the method includes adjusting a length of the strap to accommodate different hand sizes. Dependent claims 14 and 15 are amended to add a step of providing a retainer for securing at least a portion of a paint applicator tool within the cavity of the container. Applicant respectfully requests a Notice of Allowance for independent claim 11 and dependent claims 13, 14 and 15, in view of the revisions and comments presented herein.

At the interview of August 31, 2005, Examiner Bareford again noted that the Zebrowski patent teaches a strap on a container in the form of a bottle, but that the strap lacks elasticity. Applicant's presently presented claims are directed to holding or applying paint, and/or to fluid containers that are quite distinct from a bottle. The teachings of Zebrowski are inapplicable to Applicant's presently claimed methods, either taken alone or in combination with other references of record. For instance, Applicant submits that there is no suggestion to combine a strap for a two liter PET soda bottle with a paint holding container handle structure, both because of structural distinctions between those articles, as well as because of the disparate uses of those articles. A paint container is held by one hand of a user with its open top upright, to allow periodic insertion of a paint application tool therein. That is its primary purpose, and a user may hold that container for that purpose for some time while engaged in the act of painting with a tool held by the user's other hand, thereby introducing a significant fatigue factor for that user's holding hand. As taught by Zebrowski, however, a soda bottle is held by a user to facilitate tipping and pouring out of the contents of the bottle. That is the primary reason for holding onto the bottle, and such a bottle is not held onto for very long—only until the bottle is empty and then it is discarded. Thus, the possibility of causing fatigue in a user's hand because of the necessity for holding the same bottle for a long time is not an issue. Applicant thus respectfully submits that Zebrowski fails to teach Applicant's invention as claimed, and, in

addition, any combination of Zebrowski with references of record would be inappropriate relative to Applicant's presently claimed invention.

With this Amendment, new claims 25-33 are presented. The relationships and additional method steps set forth in these new claims, as well as in the amended claims discussed above, are fully supported by the original disclosure as filed, and no new matter is presented herein. New claims 25, 26 and 27 are ultimately dependent upon independent claim 2, while new claims 28, 29 and 30 are ultimately dependent upon independent claim 11. New claim 31 is a new independent claim. Claim 31 is similar in structure to claim 2, but specifies that the method is for a "method of holding a coating fluid" (rather than "holding paint") and specifies "the supportive strap comprising an elastic portion" (rather than "the supportive strap being at least partially elastic"). New claims 32 and 33 depend from claim 31. Applicant respectfully requests a Notice of Allowance for new claims 25-33.

With this Amendment, Applicant has attempted to address all issues raised in the Office Action of July 7, 2005. Applicant again expresses appreciation to Examiner Bareford for the courtesies extended to the Applicant and Applicant's counsel during the August 31, 2005 interview in this application. If the Examiner believes that examination could be facilitated by a further interview, Applicant invites the Examiner to contact Applicant's undersigned counsel by telephone for that purpose.

Respectfully submitted,

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